

DOLORES-ROSE DAUENHAUER, and

HELEN E. CHAMBERLAIN

Plaintiffs,

vs.

THE BANK OF NEW YORK MELLON, et al.

Defendants.

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CASE NO. 3:12-1026

JUDGE NIXON/KNOWLES

This matter is before the Court upon “Plaintiffs’ Motion to Realign the Parties.” Docket No. 38. Plaintiffs have filed a supporting memorandum. Docket No. 39. Certain defendants have filed a response in opposition to the Motion. Docket No. 43.

The Court notes that the instant motion is apparently, word-for-word, identical to a “Motion to Realign Parties” that was filed in *Smith v. America’s Wholesale Lender, et al.*, Case No. 3:10-0800, United States District Court for the Middle District of Tennessee, pending before Judge Campbell.¹ The Court further notes that the supporting memorandum in *Smith* and the “argument” portion of Defendants’ response in *Smith* appears to be identical to the same documents in the instant case.

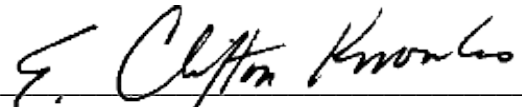
On March 13, 2013, Judge Campbell entered a Memorandum and Order (Docket Nos. 172, 173) denying the Motion to Realign Parties filed in *Smith*.

¹Counsel for Plaintiffs in *Smith* is also counsel for Plaintiffs in the case at bar.

The undersigned adopts the analysis in Judge Campbell's well-reasoned Memorandum. Briefly, as Judge Campbell noted, the cases cited by Plaintiffs are cases in which parties were realigned for jurisdictional purposes. In the case at bar, as in *Smith*, Plaintiffs allege that jurisdiction is proper in this court pursuant to 28 U.S.C. § 1331 (federal question jurisdiction). There is no allegation of diversity jurisdiction, and Plaintiffs do not ask the Court to realign the parties for jurisdictional purposes. Plaintiffs simply want the Court to realign the parties for purposes of the burden of proof.

For the forgoing reasons, the instant Motion to Realign Parties (Docket No. 38) is DENIED.

IT IS SO ORDERED.



E. CLIFTON KNOWLES
United States Magistrate Judge